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Protracted conflicts in the GUAM area and their implications for international peace, security and development

Status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/ South Ossetia, Georgia

Report of the Secretary-General

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 68/274, in which the Assembly requested the Secretary-General to submit a comprehensive report at its sixty-ninth session on the implementation of the resolution. The report covers the period from 1 April 2014 to 31 March 2015 and draws on information received from a number of United Nations entities.

2. In accordance with the provisions of the resolution, the report focuses on: (a) the right of return of all refugees and internally displaced persons and their descendants, regardless of ethnicity; (b) the prohibition of forced demographic changes; (c) humanitarian access; (d) the importance of preserving the property rights of refugees and internally displaced persons; and (e) the development of a timetable to ensure the prompt voluntary return of all refugees and internally displaced persons to their homes.

II. Background

3. Following an escalation in conflict in 1992-1993, which caused significant displacement of civilians, armed hostilities between the Georgian and Abkhaz sides ended with the signing in Moscow on 14 May 1994 of the Agreement on a Ceasefire and Separation of Forces (see S/1994/583 and Corr.1). That agreement was preceded by the signing in Moscow on 4 April 1994 of the quadripartite agreement on the voluntary return of refugees and displaced persons (see S/1994/397), in which the parties agreed to cooperate and interact in planning and conducting activities to safeguard and guarantee the safe, secure and dignified return of people who had fled from areas in the conflict zone to the areas of their previous permanent residence. Armed hostilities between the Georgian and South Ossetian sides ended with the 24 June 1992 Sochi Agreement, which established a ceasefire between the Georgian and South Ossetian forces and the creation of the Joint Control Commission and Joint Peacekeeping Forces.

4. Following the hostilities which started in the Tskhinvali region/ South Ossetia, on 7 and 8 August 2008, the six-point ceasefire agreement of 12 August 2008 and the implementing measures of 8 September 2008 (see S/2008/631, paras. 7-15), international discussions were launched in Geneva on 15 October 2008, co-chaired by representatives of the European Union, the Organization for Security and Cooperation in Europe (OSCE) and the United Nations (see S/2009/69 and Corr.1, paras. 5-7). The international discussions were to address the issues of security and stability and the return of internally displaced persons and refugees. By the end of the reporting period 31 rounds of the Geneva international discussions had been held, with participants meeting in two parallel working groups.

5. In June 2011, the General Assembly, in its resolution 65/288, approved the budget for the United Nations Representative to the Geneva International Discussions. The establishment of a special political mission has facilitated the continued engagement of the United Nations in the Geneva process. The United Nations Representative and his team are responsible for preparing, in consultation with the co-chairs, the sessions of the Geneva international discussions. In December 2013, the General Assembly, in its resolution 68/248 A, appropriated the programme budget for the biennium 2014-2015 for special political missions,

including for the United Nations Representative to the Geneva International Discussions. Moreover, in my report on estimates in respect of special political missions, good offices and other political initiatives authorized by the General Assembly and/or the Security Council, I included among the proposed resource requirements for the period from 1 January to 31 December 2015 the United Nations Representative to the Geneva International Discussions, which has an open-ended mandate (see A/69/363 and Corr. 2 and Add.1).

6. The United Nations Representative to the Geneva International Discussions and his team are also responsible for preparing, convening and facilitating the periodic meetings of the Joint Incident Prevention and Response Mechanism under United Nations auspices in Gali (see S/2009/254, paras. 5 and 6). The last (35th) meeting of the Mechanism took place on 23 March 2012 and has not been resumed since. Unfortunately, multiple efforts to overcome differences and resume the Mechanism had yielded no result by the end of the reporting period. I once again call upon all participants to leave political issues aside and focus on the important incident prevention nature of the Mechanism with a view to unconditionally resuming the meetings of the Mechanism as soon as possible. As long as the Mechanism remains suspended, the risk of escalation in incidents on the ground exists. In the meantime, until the meetings of the Mechanism are resumed, the United Nations Representative will continue his bilateral engagement with all stakeholders with a view to keeping communication open and continuing his incident prevention and response efforts.

7. During the reporting period, participants in Working Group I of the Geneva international discussions continued to discuss the security situation on the ground, with concerns expressed with regard to detentions, procedures for crossings and criminal activities, such as kidnappings for the purpose of ransom collection. However, participants assessed the overall security situation as relatively calm and stable. They also continued discussions on the key issues of the non-use of force and international security arrangements. International obligations constraining the use or threat of force, without prejudice to the right of individual or collective self-defence, are embodied in the Charter of the United Nations and other international instruments. There were also discussions on steps in the direction of pledges on the non-use of force, including unilateral statements by all relevant stakeholders. I would encourage all relevant participants to engage constructively on the issue of the non-use of force. As part of the review of the security situation, discussions took place on the so-called "treaty on alliance and strategic partnership", signed between Moscow and Sokhumi on 24 November 2014, and the so-called "treaty on alliance and integration" signed on 18 March 2015. Divergent views were expressed in this regard by the participants.

8. The timing and content of the so-called "treaties" have been divisive, with Georgia asserting that the moves constitute attempts by the Russian Federation to "annex" South Ossetia and Abkhazia, Georgia, while the Russian, South Ossetian and Abkhaz participants underline that such "treaties" merely underline the deepening relations between "sovereign countries". Unfortunately, the discussions in the framework of the Geneva international discussions were negatively affected by the strongly-held divergent views over those events and their meaning. Working Group II continued to address issues concerning the humanitarian needs of all affected populations. Although it was possible to keep the situation of displaced persons, including their right to return and other durable solutions, on the agenda of

Working Group II, despite several attempts from some participants to have it removed, there was little discussion on substance. Regrettably, there was also little willingness on the part of some participants of Working Group II to address the issue of return and freedom of movement of displaced populations. Voluntary return is a right of displaced populations and should be addressed from this perspective.

9. In the context of Working Group II, the agreement of participants was sought to obtain permission to allow visits of gravesites across administrative boundary lines, during the Easter period, by relatives of the deceased, including those who were killed during the conflicts, but no accord was reached. I urge the sides to undertake humanitarian "good faith" gestures, including positive consideration of such requests.

10. Participants continued to exchange views on the human rights situation on the ground. In the absence of access to all affected areas, despite repeated calls for such access, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has continued to seek opportunities to better facilitate the protection and promotion of human rights for the affected people. In order for this to happen, a more decisive engagement of relevant stakeholders to uphold their human rights obligations is paramount. I invite all stakeholders to grant unimpeded access to OHCHR, in order for the Office to be able to monitor, report on and address the human rights situation and encourage "people to people" initiatives, communication and coordination between civil society, religious leaders and human rights structures. Only through such concerted efforts could human rights protection gaps and the underlying human rights issues be addressed and the conditions as regards the rule of law be improved. Human rights issues that require particular attention include the question of missing persons; freedom of movement; alleged arbitrary detentions related to crossings and the conditions for those detained; access to livelihoods; unhindered access to places of worship, graves and memorial sites; possession of personal documents as a prerequisite for the exercise of human rights and access to services; and the right to education and the participation of women on equal terms with men in all aspects of conflict prevention, peacebuilding, post-conflict transition and reconstruction processes.

11. Another topic that received the sustained attention of all participants was the continued unknown fate of persons who went missing during the conflicts. The understanding shown by all participants of Working Group II for the plight of the families of the missing and the commitments made to engage meaningfully on the issue, in particular by supporting the work of the International Committee of the Red Cross, is commendable. While many humanitarian issues remain unresolved, the Geneva international discussions continue to offer an opportunity for participants to engage on such issues in a constructive manner and liaise with United Nations humanitarian agencies, funds and programmes.

12. To allow for more informed debates, special information sessions were conducted in conjunction with the formal rounds of the Geneva international discussions, allowing participants to benefit from the experience and advice of the United Nations, non-governmental organizations and other experts. Participants were given the opportunity to deepen their understanding of, inter alia, managing disaster risk, public health preparedness and threat perception issues.

13. While some participants still have some reservations concerning the present format and efficiency of the Geneva international discussions process, ongoing and

structured dialogue is crucial to enhancing stability in the region and to making progress on the security, humanitarian and other remaining challenges. I join all the participants and co-chairs in reiterating that the Geneva international discussions remain the only forum for relevant stakeholders to meet and address the issues identified in General Assembly resolution 68/274.

III. Right of return

A. Scope of displacement, return and local integration

14. No major changes were observed during the reporting period with regard to refugees or internally displaced persons exercising their right to return and no new significant displacements were registered. The Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia conducted a comprehensive registration of 262,704 internally displaced persons, as of January 2015. After the main phase of registration, ended on 31 December 2013, the re-registration by the Ministry continued in the its central office, in Tbilisi, until 31 May 2014, with additional persons being registered thereafter as required. The generational aspects of displacement in the absence of durable solutions are of concern. The largest numbers of internally displaced persons were registered in Tbilisi and Zugdidi.

15. While progress was made towards the local integration and relocation of internally displaced persons, it should be noted that they generally are not able to make free and informed choices as to whether to return or to avail themselves of other durable solutions. During the reporting period, the Office of the United Nations High Commissioner for Refugees (UNHCR) conducted a survey of intentions among the displaced population, to establish their current perceptions with regard to voluntary return, local settlement or relocation elsewhere within Georgia. More than 2,000 persons among the displaced population were interviewed during the course of data collection. The results of the survey are expected after the end of the current reporting period and will be included in the next report.

16. A number of families who were previously commuting between Gali and Zugdidi on a seasonal basis moved back to Gali, but no precise data quantifying such individual returns to the Gali region or other parts of Abkhazia are available. The authorities in control continue to deny the return of ethnic Georgian internally displaced persons to locations of their origins that are outside of the accepted return areas in the Gali, Ochamchira and Tkvarcheli districts. With regard to the population of returnees in Abkhazia, UNHCR has repeatedly sought assurances from the authorities in control with regard to those persons' rights relating to permanent residence, political rights, equal protection before the law, property ownership, social security, health care, work and employment, education, freedom of thought, conscience and expression, cultural life and freedom of movement. The position of UNHCR was presented to the authorities in control through a white paper.

17. The return of internally displaced persons to South Ossetia has been routinely denied by the authorities in control, apart from visits to the Akhalgori district which are possible, at times, for those displaced from that area. UNHCR continues to observe regular movements of people in and out of Akhalgori district. The lack of

required documentation for crossing continues to impede the movement of, and to isolate, an estimated 5,000 internally displaced persons from Akhalgori district. Limited numbers of those displaced — between 2,500 and 3,000 out of an estimated 5,000 applicants — have been issued with documentation (*propusk*), allowing for their presence in Akhalgori and freedom of movement across the dividing line. The main crossing point towards Akhalgori for the exercise of freedom of movement for displaced or conflict-affected populations is the Odzisi checkpoint. Those using the crossing point were informed in December 2014 by authorities in control in South Ossetia that the "propusk" document used by them for passage, although expired at the end of 2014, could still be informally used until March 2015. Movement across the crossing point for those with documents continues. The local population was further informed by the authorities in control in Akhalgori that their expired "propusk" could be informally used until July 2015, at which point new regulations are foreseen, linked to implementation of the recent "treaty" with the Russian Federation. Humanitarian actors, including United Nations agencies, are not provided access to South Ossetia by the authorities in control. I call upon all sides to ensure access for humanitarian assistance and the aid workers who deliver it. I also urge the reversal of a trend that has seen a reduction in the number of documents issued each time that the new documentation requirements are introduced, since it has a serious negative impact on freedom of movement. The authorities in control agreed in principle to a case by case review of the situation of such persons, with a view to considering granting permits for movement across the administrative boundary line, on the basis of lists to be provided by UNHCR. UNHCR has directly intervened with South Ossetian authorities in control on behalf of a small number of persons who had not been able to obtain the new crossing document. While a reply was received, no permits have been issued to the listed persons. I call upon all parties involved to reconsider the cases and exercise a transparent and humanitarian approach in granting permits for crossing the administrative boundary line.

18. The Office of the High Commissioner for Refugees remains ready to revive consultations on the return of persons of concern to the Akhalgori district with a view to securing the safe and voluntary nature of any such movement. All stakeholders are encouraged to keep return options open and to abstain from any restrictive measures. Moreover, further steps are needed to ease the crossing procedures in the area to allow individuals not only to maintain contact and follow developments in their home communities, but also to make a free and informed choice as to whether to return or to integrate in areas of displacement or elsewhere.

19. While more than 100,000 individuals who were displaced during the 2008 conflict have returned to their homes, most of them soon after the conflict, over 20,000 individuals remain in displacement. "Borderization" measures along the administrative border line continued throughout the reporting period. Twelve separate monitoring missions by UNHCR identified that although the installation of fences decreased, obstacles to freedom of movement continue to be mounted along the administrative boundary line, including signs, watchtowers and surveillance equipment. Such measures enable Russian Federation border guards to track and potentially detain villagers who intentionally or unintentionally cross the administrative boundary line, for example, when visiting graveyards, retrieving stray cattle, attending to irrigation channels or transiting to and from work in their fields. I am pleased that the meetings of the Mechanism in Ergneti have, in some instances, helped in negotiating the quick release of villagers arrested in such cases.

20. The primary remaining protection and reintegration challenges relate to shelter rehabilitation needs and limited livelihood opportunities. The inability to freely access fields, orchards, traditional grazing grounds, forests and markets has reduced income and employment opportunities and further limited communication and relations between families living on opposite sides. The fencing measures along the administrative boundary line exacerbated the already difficult living conditions of internally displaced persons and other persons living in the area, including and in particular in the mountain regions of Georgia, conditions that are characterized by a lack of access to services and rights owing to isolation and a lack of information. The previously existing societal structures of the villages have disintegrated and villages are emptying with only a few elderly occupants remaining year-round in many locations. In order to mitigate the most harmful impact on the survival mechanisms and livelihoods of the population, UNHCR, the United Nations Development Programme (UNDP), the European Union, the United States Agency for International Development, the Swiss Agency for Development and Cooperation and some embassies provided winterization assistance to 2,011 villagers living along the administrative boundary line, as well as targeted individual support to 76 vulnerable internally displaced persons in Shida Kartli. The interim governmental commission established by the Government of Georgia to address the needs of affected communities in villages along the dividing line has also mobilized State funds for investment in villages affected by fencing to develop infrastructure relating to irrigation and drinking water, roads, education, agriculture, shelter, heating and health. Substantial progress has been made in the implementation of such measures. The interim governmental commission completed the following activities in 2014, for villages along the dividing line: the installation of gas pipelines for 33 villages, accounting for 1,900 households, the construction of four new boreholes, the distribution of winter vouchers of 200 lari to 11,677 households, the provision of tuition assistance to 564 students during the 2014-2015 school year, the rehabilitation of seven schools and the construction and equipping of health clinics in 19 villages. Such activities will continue in 2015.

21. The Government of Georgia continues to pursue two main goals: the creation of conditions for dignified and safe return and the improvement of the socioeconomic conditions of internally displaced persons, serving their integration. Support for the livelihoods of internally displaced persons received enhanced attention from the Government and its partners through the development of strategies and action plans. Concerted efforts by the Government to actively solicit the support of all stakeholders to improve the livelihoods of internally displaced persons are to be commended, including the adoption on 4 February 2015 of the action plan for internally displaced persons.

22. The national legislation governing the treatment of internally displaced persons, effective March 2014, has clarified a number of issues and enhanced the protection of this population against discrimination. I reiterate that the rights of all internally displaced persons, as defined in the Guiding Principles on Internal Displacement, must be respected and protected in law and in practice.

23. Relocations and related evictions, conducted in the context of the Government's efforts to provide internally displaced families with durable housing solutions, have in the past caused grievances among internally displaced persons. Following advocacy from UNHCR and other actors, the Government has adjusted its approach and is now offering more housing solutions in urban and economic

centres and is trying to avoid relocations from urban areas to more remote locations. The level of dissatisfaction among internally displaced persons regarding housing offered to them has therefore considerably decreased. A new system for internally displaced persons to contact ministry officials, using a low-cost, Internet-based technology for making calls, supported by UNHCR, has been implemented at the Ministry for Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees. This allows internally displaced persons in remote locations to communicate directly with ministry officials, without having to travel to Tbilisi, to express their concerns and resolve problems. Other efforts, such as rural housing projects, which combine the provision of shelter with agricultural land, have expanded the housing options. However, considering the total needs, durable housing solutions remain limited and alternative solutions deserve consideration. The Government's procedures, developed with a view to enhancing the transparency of the selection and allocation process and the rights of internally displaced persons, were generally respected, but remain too complex to yield substantial results in an acceptable time frame.

24. Given the scale of the displacement, substantial challenges concerning the integration of internally displaced persons remain. The Government of Georgia estimated that some 50,000 families still need to be provided with various types of accommodation. Despite Government efforts to provide alternative accommodation for internally displaced persons living in dilapidated collective centres, an estimated 40 per cent of internally displaced persons still reside in such centres, while 60 per cent of internally displaced persons live in private accommodation. It should be noted that challenges also remain for those in the latter category, as their living conditions in private accommodation are often as bad as or even less favourable than those found in collective centres.

25. The provision of durable shelter, while essential, is not the only aspect of integration. The socioeconomic aspects, such as sustainable livelihoods and access to quality education, medical and social services, must also be addressed. While the United Nations agencies, funds and programmes, together with donors and other stakeholders, remain engaged and continue to assist the Government in protecting and ensuring the rights of the affected populations, acute humanitarian crises in other parts of the world have had a negative impact on the funding level for humanitarian projects in Georgia. Moreover, further progress in integrating and improving the living conditions of internally displaced persons is becoming less a question of humanitarian response and more a matter of mainstreaming their interests into broader development efforts. As time passes, the needs of internally displaced persons, other than needs relating to shelter, are increasingly similar to or the same as those of the poorer segments of the population not directly affected by displacement. While the adoption of a livelihood strategy for internally displaced persons is a welcome development, it is now crucial and urgent that the socioeconomic needs of internally displaced persons be addressed alongside those of the local population within the context of national and regional development agendas. The costs of meeting the needs of underdeveloped and impoverished regions are substantial and require increased State budget allocations, as well as donor support, in order to make a difference that is felt by the population.

26. I would encourage the authorities to ensure that regions hosting displaced populations and internally displaced persons themselves are able to fully benefit from development programmes. In this respect, and in order to bridge the gap

between humanitarian response and development activities, UNDP and UNHCR have expanded their joint programme, aimed at improving the livelihoods of internally displaced persons and returnees, beyond Shida Kartli to conflict-affected communities in Samegrelo and Abkhazia.

27. It is estimated that over 45,000 people have already spontaneously returned to their homes in the Gali district. Progress has been made in their reintegration process, although important needs and protection challenges remain. While at least 1,000 to 1,500 of the most vulnerable returnee families remain in urgent need of assistance, shelter programmes in Abkhazia have come to a halt, with the exception of one programme of the Danish Refugee Council, following the decision by UNHCR to discontinue shelter support for returnees in 2013 owing to a lack of resources. Among those still displaced, the majority informed UNHCR that one of the most important preconditions for return is shelter assistance. The absence of substantial shelter programmes in Abkhazia is thus a strong disincentive to return. Those who returned to Abkhazia are officially considered internally displaced persons by the Government of Georgia and as such are eligible for assistance. For those who have returned, access to documentation providing a recognized right to reside in Abkhazia and providing for freedom of movement across the Inguri River is a significant concern and priority. Seasonal movements related to agricultural activities as well as family visits continued to be observed. Such movements to Abkhazia took place primarily across the administrative boundary line but also directly from the Russian Federation. While more precise and comprehensive, independently verified data on the numbers and profiles of the returnees, and on the other conflict-affected communities residing in the Gali district, are not available, I call upon the relevant sides to take further steps in order to clarify and acknowledge the number or returnees, as well as to ensure freedom of movement and that residence, property, social and political rights are ensured for the returnee and displaced populations. I encourage all participants in the Geneva international discussions to maximize the use of this forum for the provision and exchange of updated data related to displacement and progress made towards return.

28. During the reporting period, more active engagement of the authorities in control with the returnee population in Gali as well as with agencies operating in Abkhazia was notable, including an agreement to expand access and the scope of work to areas beyond Gali, as well as daily interaction. At the same time and while the political debate about the future status of the returnee population in Abkhazia continues, the returnee population remains concerned about their freedom of movement. With efforts under way intended to address status and documentation issues that would appear to facilitate movement, it is important that these materialize in a timely and predictable manner so as to enhance confidence and preserve mobility across the administrative boundary line. Notwithstanding the issues relating to freedom of movement, a number of developments have had a positive impact on the humanitarian and security situation of the population in the Gali region and on the reintegration prospects of those who have returned. These included a variety of infrastructure and livelihood initiatives financed by the international community, including the construction of 47 new houses and the rehabilitation of 30 existing houses, repairs to the hospitals in Saberio and Gali town and the construction in Gali of a special playground for children living with disabilities.

29. Progress was observed in relation to security on the ground with respect to the local Gali population. The practice of extortion was further reduced and a major response to combat kidnapping for ransom was implemented by Abkhaz and Russian security forces, resulting in the suppression of major criminal gang elements. In pursuing gang members implicated in kidnapping, the security forces regrettably suffered casualties during operations in Gali, which also resulted in the death of four criminals. Unfortunately, criminality targeting people with money in cash or cash crops, such as hazelnut harvests, or people who are known to have well-to-do relatives in Georgia or abroad, is ongoing. The so-called "treaty on alliance and strategic partnership" provides for the implementation of joint Russian-Abkhaz security forces for collective defence, joint law enforcement structures for fighting crime and a broad range of measures for further integration into Russia's economic, social protection and health-care systems, funded by the Russian Federation. Returnees fear that this "treaty" may result in further restrictions and control of movement along the Inguri River, with a potential reduction of official crossings, expanded "borderization" efforts and an increased presence of and control by security forces. By April 2015, no concrete steps had been taken by the authorities in control to change the crossing regime over the Inguri River and at another five crossing points opened in May 2013. I urge that such changes do not take place in the future. The Inguri hydroelectric power station, located in the upper part of the Gali district, which was also opened at that time, is functioning smoothly. It was observed that the opening of that crossing point, together with that of the central Inguri Bridge, which also serves as a crossing for vehicles, have ensured a relatively orderly crossing for the local population.

30. Additional protection and reintegration challenges remain. While generally acknowledging some progress and expressing appreciation for the assistance received, the local population does not yet consider the situation to be "fully normalized" and a sense of insecurity still prevails. Remaining protection concerns expressed by returnees relate to: (a) freedom of movement, in particular the longer-term perspective, as messages received are perceived as not always being consistent; (b) documentation required to exercise freedom of movement, to enjoy rights and to gain access to services; (c) access to education, including higher education, and language of instruction; (d) secure access to quality health-care facilities, on both sides of the administrative boundary line; (e) occasional incidents of discrimination, including those related to documentation and access to services; and (f) the denial of effective protection against crime and the lack of adequate response to sexual and gender-based violence. A significant segment of the population in Gali, Tkvarcheli and Ochamchira districts has no valid documentation. As a result of the investigation into possible wrongdoing during the process of issuing Abkhaz documents, the authorities in control declared some 20,000 Abkhaz passports invalid, although they did not physically withdraw them from their holders. During the first quarter of 2015, local authorities in Gali conducted a survey among the population regarding Georgian citizenship and documentation. Of some 18,000 persons surveyed, who responded that they have Georgian citizenship and documentation, over 17,000 indicated that they do not intend to give up their Georgian citizenship. As a result, part of the local population feels insecure owing to fears that they may be left without documents that would allow their freedom of movement, employment, business registration, property ownership and access to services.

31. Since the conflict in August 2008, the United Nations agencies, funds and programmes have had very little operational access to the Tskhinvali region/South Ossetia, and are therefore not in a position to verify or closely monitor displacement or return movements, nor indeed the humanitarian needs or issues relating to the human rights of returnees or host populations. However, in preparation for the rounds of the Geneva international discussions, the co-chairs and United Nations staff were able to visit the region and familiarize themselves with the latest developments.

32. Information made available to UNHCR by the Federal Migration Service of the Russian Federation indicates that, as at 1 January 2015, 65 persons (belonging to 56 families) from Georgia enjoy refugee status in the Russian Federation. An additional 472 persons (belonging to 340 families) from Georgia, including from Abkhazia and the Tskhinvali region/South Ossetia, currently hold temporary asylum status in the Russian Federation. Of that number, 103 persons (belonging to 92 families) were granted temporary asylum in 2014. No organized returns from the Russian Federation to areas covered by the present report were conducted in 2014, and no information is available from the Federal Migration Service on any spontaneous returns. The actual number of persons displaced from Georgia residing in the Russian Federation is considered to be higher, as many are not reflected in the official statistics, having regularized their residence status outside of refugee protection mechanisms or having lost refugee status upon the acquisition of Russian citizenship.

B. Institutional framework and operational measures

33. In 2005, UNHCR, the Danish Refugee Council, the Norwegian Refugee Council and the Swiss Agency for Development and Cooperation developed, in consultation with all stakeholders, an initiative entitled "Strategic directions: promoting confidence-building measures for displaced and war-affected persons in Abkhazia". The initiative was aimed at supporting a bottom-up peacebuilding approach based on self-reliance and community involvement. The initiative integrates protection and assistance efforts through monitoring the situation of returnees, addressing their concerns in discussions with the relevant authorities and providing targeted assistance. Since April 2009, the initiative has been complemented by a strategic framework for continued assistance, which seeks to achieve durable solutions for returnees through integrated protection and assistance activities and the promotion of their rights, with a view to preventing renewed displacement of the population in the Gali, Ochamchira and Tkvarcheli districts. The initial focus on returnees has, over the years, been replaced by strategies and actions targeting all vulnerable populations in Abkhazia. Such efforts bring together as strategic partners, under the overall coordination of the United Nations Resident Coordinator, UNHCR, UNDP, the United Nations Children's Fund (UNICEF), the Swiss Agency for Development and Cooperation and international non-governmental organizations, namely, Action against Hunger, the Danish Refugee Council, Première urgence and World Vision International, as well as some additional humanitarian actors in an observer capacity. The expansion of a joint UNDP/UNHCR programme on agricultural livelihoods in Kvemo Kartli, Samegrelo and Abkhazia will further contribute to a more durable solution for internally displaced persons and returnees.

34. In July 2010, the Government complemented its "State strategy on occupied territories: engagement through cooperation" (adopted by Order N107 of 27 January 2010), with the action plan for engagement (adopted by Order N885 of 3 July 2010, amended on 26 January 2011). The plan envisages the undertaking of a number of steps aimed at building trust and confidence among divided communities. Those measures were followed in October 2010 by the issuance of the regulation of the Government of Georgia on the approval of modalities for conducting activities in the occupied territories of Georgia. In that context, United Nations agencies, funds and programmes will continue to engage in humanitarian action on the basis of their respective mandates and within the framework of multilateral and bilateral agreements governing the privileges and immunities of the United Nations.

35. In my report of 20 May 2013, I informed the General Assembly of the declared intention of the Government of Georgia to pursue a more open form of engagement (see A/67/869, para. 35). In that regard, the government's decision of 1 January 2014 to rename the State Ministry for Reintegration the State Ministry for Reconciliation and Civic Equality eliminated one of the stated objections on the part of the authorities in control in Abkhazia and Tskhinvali region/South Ossetia to participate in direct dialogue. Ambiguities both in the current legislation and between the Law on Occupied Territories and the State strategy on occupied territories complicate the operational environment for international and local actors involved in humanitarian, peacebuilding and other activities and constrains the development of an enabling environment for more direct interaction.

36. The status-neutral liaison mechanism, established by UNDP in 2012 (see A/65/846, para. 21) continued to operate during the reporting period, including in facilitating the delivery of vaccines, medicine and other forms of humanitarian assistance to Abkhazia. This has proven to be a valuable tool not only in supporting the implementation of humanitarian projects, but also in connecting and facilitating dialogue between the divided communities. The effectiveness of the mechanism is based in large part on the fact that its status-neutral and human rights-based approach is accepted and supported by all sides. In this regard, the mechanism offers an example of an effective approach that, with genuine will and readiness to compromise, may be replicated in other spheres of activity. At the same time, I would encourage all parties and stakeholders to consider establishing such a mechanism to help address the humanitarian and other needs of the population living in the Tskhinvali region/South Ossetia.

37. During the reporting period, United Nations agencies, funds and programmes continued to respond to humanitarian needs. UNICEF continued to focus on improving access for vulnerable children and youth in rural and returnee communities to quality health care, education and social services. Together with UNDP, UNICEF continued to strengthen routine immunization practices, provided equipment to medical institutions and organized training for medical professionals focusing on maternal and child health care, HIV/AIDS, sexually transmitted infections, oncology, healthful lifestyles and emergency medical care, as well as information technology skills. UNICEF continued to provide 48 rural medical points within social community centres with basic equipment, essential drugs and training, and carried out public health promotion and communication activities in rural areas, as well as hygiene promotion and education in schools, including as regards improved access to water and sanitation. In cooperation with World Vision International and local partners, UNICEF further continued to provide basic social

services for children living with disabilities and their families and supported training for education professionals in modern teaching methodologies for preschool and primary education. It also continued to support youth participation and development, as well as confidence-building, through 36 youth clubs throughout the conflict-affected regions of Abkhazia, Samegrelo and Shida Kartli.

38. UNDP paid special attention to youth in returnee communities and their access to various international educational sources. In collaboration with local non-governmental organizations working on youth activities, UNDP created a network of seven computer-based training centres offered access to information technology and training to more than 1,100 local beneficiaries. Young students were offered internationally recognized information technology certifications and English language classes with certification, enabling them to access graduate and postgraduate education abroad.

39. The Office of the High Commissioner for Refugees, in partnership with local and international non-governmental organizations, continued to address obstacles to sustainable return by providing a limited number of individual cash grants and essential household items to vulnerable families, legal advice and counseling in relation to documentation issues and access to rights and services, shelter repair and rehabilitation and income-generating opportunities. Moreover, efforts to strengthen the prevention of and response to sexual and gender-based violence were undertaken through, inter alia, medical, legal and psychosocial counseling and awareness-raising campaigns.

40. The issue of freedom of movement across the administrative boundary line has security, humanitarian and human rights dimensions and remains of utmost importance to the local population. Developments during the reporting period were marked by two trends: enhanced control and formalization of crossings. On the one hand, so-called "borderization" measures, including the blockage of footpaths, increased and more systematic surveillance by Russian Federation border guards and strict fining practices, were reported. On the other hand, the local population was in principle able to continue to move across the Inguri Bridge and the simplified permit system introduced in 2012, which facilitates crossing, is being upheld. As referred to in paragraph 29 above, five new crossing points were made operational. Four additional crossing points for use only by pedestrians were established in the following locations in lower and upper Gali region: (a) Otobaia-2, (b) Nabakevi/Nabakia, (c) Tagiloni/Taglan and (d) Saberio/Papanrkhua. The fifth crossing, at Lekukhona/Alekumkhara, is specifically designated to serve vehicle crossings for Inguri hydroelectric power station employees. The crossing points are operational from 7 a.m. to 8 p.m. every day and multiple documents are allowed to be used by those who are crossing. I welcome and encourage all steps which would facilitate the freedom of movement and freedom of travel of all segments of the local population and allow their movement and travels in safety and dignity.

41. I have taken note of encouraging information on ambulance services allowed across the administrative boundary line, according to which pragmatic practice has been established to the effect that when medical transportation is needed, patients are being brought by one ambulance to the Inguri Bridge crossing point and then picked up by another ambulance that transports them further on the other side. A shuttle service implemented by UNHCR in areas of return provides transport services for school children to access educational facilities. In many cases the Joint

Incident Prevention and Response Mechanism hotline, which is still operational, was used to inform those on both sides about the need for medical transportation. Although limited in scope and effect, the ambulance services are a testimony to emerging good cooperation in jointly addressing humanitarian concerns.

42. However, there were some allegations that closure of the Inguri checkpoint during the night and the denial of access to other crossing points had caused delays in reaching proper medical services, resulting in fatalities. While the alleged incidents, their background and the possible connection between the closure of the crossing points and the deaths of individuals could not be fully verified, it is critical that neither the selection of medical services nor access thereto be influenced by political considerations. Persons in need should be able to gain access to medical attention wherever it can be offered most quickly and at the highest attainable standard. I call upon all stakeholders to exercise maximum care and flexibility in this regard and to improve the conditions for the crossings, including through the introduction of a fast-track procedure for the vulnerable and the rehabilitation of deteriorating conditions on Inguri Bridge.

43. The local population in the Gali district, including returnees, remains concerned about its freedom of movement, its continued contact with family members and friends residing on the other side of the Inguri River and its access to social infrastructure, including medical facilities and markets in the Zugdidi district. The development and implementation of a crossing regime that allays those concerns remains crucial for improving the living conditions of the local population, advancing the reintegration of returnees and preventing renewed displacement. In that context, it is essential to identify and implement solutions for the provision of documentation in conformity with international law, including international human rights law, and the principles governing the prevention and reduction of statelessness. Although most of the cases were eventually settled, there were reports at the beginning of the school year, in September 2014, that schoolchildren had not been allowed to cross at certain sections of the Inguri River in order to attend school. I urge the relevant authorities to take pragmatic steps to solve this recurring problem and allow children to cross at convenient and safe locations.

44. The principles and factors governing the implementation of the return of internally displaced persons outlined in my report of 24 August 2009 (A/63/950), particularly in paragraphs 8 to 14 thereof, remain valid. There is a complex nexus between the individual right to voluntary, safe and dignified return and the establishment of the conditions conducive to such return. The individual's right of return, in the case of an internally displaced person, derives from his or her right to freedom of movement as stipulated in article 12, paragraph 1, of the International Covenant on Civil and Political Rights and, in relation to a refugee, from article 12, paragraph 4, of the Covenant, according to which "no one shall be arbitrarily deprived of the right to enter his own country". In accordance with article 12, paragraph 3, of the Covenant, the freedom of movement, as established in article 12, paragraphs 1 and 2, can only be subject to restrictions "which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights" recognized in the Covenant. Progress made with respect to integration, locally or by resettlement, does not result in a loss of the right of return.

45. I reiterate that the right of return and its exercise by an internally displaced person cannot therefore be directly linked to political questions or the conclusion of peace agreements. It is essential to recognize return as both a human right and a humanitarian issue that must be addressed irrespective of any solution to an underlying conflict. At the same time, it is primarily for the individual to assess the risks and make an informed choice as to whether or not to return at a given time. In doing so, a displaced person must be able to take into account all factors that could affect his or her safety, dignity and ability to exercise basic human rights.

46. The United Nations is committed to assisting States in the search for durable solutions for displaced populations, and its engagement is based on the understanding that voluntary return in safety and dignity is one durable solution, the other two being local integration and resettlement. The role of the United Nations in the facilitation, design and implementation of organized return operations must be guided by the need to avoid causing harm or contributing to the exposure of persons of concern to possible human rights violations. Therefore, activities related to organized returns must be based on a careful risk assessment, taking into consideration the existing security and human rights conditions and concerns, access to livelihoods and basic services and the voluntary nature of return. Unhindered humanitarian access and the ability of the United Nations and its mandated agencies, funds and programmes to effectively monitor all these factors is another aspect to be taken into account.

IV. Prohibition of forced demographic changes

47. Relevant international human rights standards should guide managed population movements, including evacuations, and thereby strictly limit forced movements, including those that result in demographic change. The principles and provisions of international law mentioned in my previous report (see A/68/868, para. 49), as well as non-refoulement obligations governing the protection of refugees and others who flee their homes as a result of or in order to avoid the effects of armed conflict or situations of generalized violence, remain fully applicable.

48. While no major new displacement was observed during the reporting period, the demographic consequences of earlier displacement remain. In that context, I would like to recall once again the observations of my former Representative on the human rights of internally displaced persons in his report of 14 January 2010 (A/HRC/13/21/Add.3 and Corr.1 and 2, paras. 7-14) and referred to in my report of 17 June 2010 (A/64/819, paras. 22 and 23).

V. Humanitarian access

A. International legal foundations governing humanitarian access

49. The need to establish and maintain humanitarian space is essential in order to effectively meet the humanitarian needs of conflict-affected and displaced populations, to mitigate suffering and to enable United Nations agencies, funds and programmes to exercise their mandates. In that context, it remains important that all sides respect their obligations and act in good faith to fully implement the principle

of humanitarian access, which is rooted in international humanitarian and human rights law. The free passage of relief goods and the facilitation of humanitarian operations are correlated to a number of human rights, including the right to life, the right to a decent standard of living and the right to protection against discrimination. Moreover, building on the practice of the United Nations human rights treaty bodies, there is growing acceptance that the obligation of States to respect, protect and fulfil human rights includes an obligation to invite, accept and facilitate international (humanitarian) assistance, in particular if the State's resource capacities or other obstacles, such as a lack of effective control of parts of the territory, limit its capacity to effectively address all humanitarian needs.

50. In the context of international conflict situations, international humanitarian law requires the establishment of conditions for the rapid and unimpeded passage of all relief consignments, equipment and personnel. In non-international conflicts, States must organize relief actions for the civilian population, without any adverse distinction. The universal acceptance of those rules has established, as a norm of customary law in both international and non-international conflicts, that parties to a conflict must allow and facilitate the rapid and unimpeded passage of humanitarian relief for civilians in need.

B. Operational challenges

51. Following the amendments introduced to the Law on Occupied Territories, after taking into consideration the recommendations issued by the European Commission for Democracy through Law (Venice Commission) of the Council of Europe in October 2010, the Government of Georgia issued its regulation on the approval of modalities for conducting activities in the occupied territories of Georgia, which, inter alia, serves as the guideline for the implementation of the Law. During the reporting period, the issuance of the modalities had no impact on the activities of United Nations agencies, funds and programmes. In the light of the ambiguity of some provisions of the modalities, allowing for a significant degree of discretion and potential arbitrariness, a further review and possible reform of those norms by the Government would be welcomed. Such a review should fully take into account the international legal foundations governing humanitarian access, as outlined above, and the practical concerns of humanitarian and development actors operating on the ground.

52. The United Nations agencies, funds and programmes were able to implement protection, humanitarian assistance, recovery and development activities in Abkhazia as planned. However, ongoing humanitarian needs notwithstanding, it is widely recognized, including by the international donor community, that needs have increasingly shifted from humanitarian assistance towards early recovery activities and the delivery of more sustainable support. The United Nations Resident Coordinator is facilitating an inclusive dialogue on this matter among international donors and with relevant authorities.

53. On 30 January 2015, the authorities in control in Abkhazia communicated formally their agreement to allow the work of all international and non-governmental organizations to proceed without geographical restrictions. That communication superseded the letter of 28 January 2013, addressed to several agencies, requesting a focus of activities on Gali district. The current flexible

approach of the authorities in control, which allows agencies to contribute to addressing the needs of the most vulnerable in all areas of Abkhazia, is in line with international standards for the work of international agencies and should be continued.

54. At the end of 2014, the aforementioned geographical restrictions were lifted and United Nations agencies and international non-governmental organizations are currently also able to operate outside Gali region.

55. Given the need for a proper transition from humanitarian assistance through recovery to longer-term sustainable development, it is important to avoid gaps in the transition process and ensure that the remaining humanitarian needs and contingency considerations are fully met. In this regard, I reiterate my call for respect for the international principles governing humanitarian access, for flexibility and for practical approaches and measures to be taken by all stakeholders therein. In addition, consultations must continue among all relevant stakeholders in order to ensure the flow of up-to-date information on the humanitarian needs of the population and to improve coordination.

56. During the reporting period, discussions were renewed on possible humanitarian access for the United Nations to the Tskhinvali region/South Ossetia. During several visits to Tskhinvali and the surrounding areas, the United Nations Representative and the other co-chairs of the Geneva international discussions were able to witness further progress on a number of ongoing humanitarian, infrastructure and reconstruction initiatives, including water projects undertaken by the Organization for Security and Cooperation in Europe (OSCE) and road construction, which has helped to reduce by more than half the travel time between Tskhinvali and the Akhalgori valley. I also take note of positive efforts to preserve or prevent further alteration and decay of the cultural heritage and to prevent the removal of artefacts from the region, including through an agreement by the participants in the Geneva international discussions to work jointly on the issue. United Nations proposals to build on previous humanitarian activities on the ground, however, have not materialized. Access for the United Nations humanitarian agencies has not been possible owing to the continuing lack of agreement on the modalities governing access. The insistence by the authorities in control that such agencies must enter solely from the territory of the Russian Federation is unnecessary, costly and inconsistent with humanitarian practice. At the same time, the International Committee of the Red Cross continued to implement a number of projects throughout the area and a number of complementary medical activities are being explored by non-governmental organizations.

VI. Property rights of refugees and internally displaced persons

57. Property-related issues remained on the agenda of Working Group II of the Geneva international discussions. Obstacles to resolving those issues remain, and my call upon all parties to adhere to the principles on housing and property restitution for refugees and displaced persons (referred to as the "Pinheiro principles") and the underlying norms of international law, including international human rights law, as outlined in my report of 20 May 2013 (see A/67/869, paras. 58-60), remains valid.

VII. Timetable for the voluntary return of all refugees and internally displaced persons and work towards durable solutions

58. No timetable for the voluntary return of all refugees and internally displaced persons has been developed, given the prevailing environment and continued discussions among the parties. Working Group II of the Geneva international discussions did not deal with the issue of voluntary return, owing to the continued unwillingness of some participants to discuss the matter. I reiterate that as long as the conditions for organized returns in safety and dignity are not fulfilled and mechanisms for property restitution are not established, the design of a comprehensive timetable or road map for returns must remain an open matter and must be addressed. Those challenges should not prevent the parties from working towards identifying durable solutions for all displaced persons, giving particular attention to the implementation of the right of return. I would like to reiterate my call upon all participants in the Geneva international discussions to engage constructively on this issue, relying on international law and relevant principles.

59. In the absence of conditions conducive to organized return and appropriate implementation mechanisms, the United Nations agencies, funds and programmes will continue to concentrate their efforts on providing the conflict-affected populations, including returnees or persons in the process of returning, with assistance and support for their reintegration. United Nations agencies, funds and programmes remain committed to proceeding at the appropriate time, in consultation and cooperation with all parties concerned, with the development of a timetable or road map addressing all components outlined in my report (A/63/950), in particular in paragraph 20 thereof.

VIII. Conclusion

60. Over the past six and a half years, the Geneva international discussions, co-chaired by the European Union, OSCE and the United Nations, have remained the single forum for the key stakeholders to discuss security and stability and humanitarian issues, in particular those relating to the return of refugees and internally displaced persons. Those efforts, together with humanitarian engagement by a variety of United Nations agencies, funds and programmes and other actors, have contributed to some improvements in the security and humanitarian situation on the ground.

61. Many security, humanitarian, human rights and development challenges, however, remain unresolved. Despite the difficult nature of the discussions, the complexity of the issues and divergence in the positions, the participants in the discussions have continued to engage on a regular basis. In cooperation with partner organizations, the United Nations facilitated information sessions on relevant best practices and lessons learned, which have helped to enrich the formal sessions of the Geneva international discussions. The United Nations stands ready to continue to support such information-sharing, along with further humanitarian and development engagement on the ground.

62. While I noted with satisfaction the constructive continuation of the meetings of the Joint Incident Prevention and Response Mechanism in Ergneti, I regret that

the meetings of the Mechanism in Gali have remained suspended since April 2012. In order to resume the meetings of the Mechanism in Gali, I urge all participants to work with the United Nations Representative to find a swift solution based on the proposals for the Mechanism of 18 February 2009. Continued and more constructive efforts by key stakeholders are needed to reach an agreement on practical steps to further strengthen the security situation and meet the pressing humanitarian concerns of the affected population, including internally displaced persons. While I am encouraged by their full commitment to the process, I once again call upon all stakeholders to uphold their engagement in the Geneva international discussions and to preserve and expand humanitarian space. I also urge donors to continue and strengthen their support for the multifaceted humanitarian, development and confidence-building efforts.